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November 9, 1992

BY HAND

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Amendment of the Commission's Rules
to Establish New Personal Communications Services
GEN Docket No. 90-314 & ET Docket No. 92-100

Dear Ms. Searcy:

Transmitted herewith for filing in the above-referenced
dockets, please find an original and six copies of the Comments of
Ohio LINX.

Please date-stamp and return the attached courtesy copy of
these Comments. If you have any questions regarding this matter,
please contact the undersigned counsel.

Sincerely,



Paul J. Feldman
Counsel for Ohio LINX

PF:ik
Enclosure

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of

Amendment of the Commission's
Rules to Establish New Personal
Communications Services

) GEN Docket No. 90-314
) ET Docket No. 92-100
)
) RM-7140, RM-7175, RM-7617,
) RM-7618, RM-7760, RM-7782,
) RM-7860, RM-7977, RM-7978,
) RM-7979, RM-7980

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To: The Commission

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Comments of Ohio LINX

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ohio LINX, Inc. ("Ohio LINX") hereby submits its comments in response to the Commission's Notice of Proposed Rulemaking In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, FCC 92-333, (the "Notice").

I. INTRODUCTION

In its Notice, the Commission seeks comments on a wide variety of issues required to structure the regulatory framework for Personal Communications Services ("PCS"). Ohio LINX agrees with the Commission's conclusion¹ that PCS is the next step in an on-going revolution in mobile communications that will have a substantial impact on the future development and configuration of all telecommunications networks. As a competitive access provider ("CAP"), these changes will directly effect Ohio LINX. In these Comments, Ohio LINX urges the Commission to recognize and promote the important role to be played in the development of PCS by small but growing entrepreneurial companies.

¹ Notice at para. 3.

Ohio LINX has owned and operated a fiber-optic telecommunications network in Cleveland, Ohio for over one-and-a-half years. This network currently uses four loops totaling approximately six miles of fiber to provide high quality competitive access services to customers in fifteen buildings. This network will ultimately be expanded to cover the entire metropolitan Cleveland area. Ohio LINX is currently constructing similar networks in Dayton, Toledo, Akron and Columbus, Ohio.

Ohio LINX believes that mobile communications will play an increasingly important role in the future of communications networks. For example, PCS is likely to have a substantial role in the growth and utility of alternate local loops and competitive access services. Ohio LINX is currently researching and developing technologies and methods for integrating PCS into the access services provided on its fiber optic networks.

Ohio LINX is also developing plans to offer a variety of other wireless personal communications services. Companies such as Ohio LINX that already have a substantial communications network in place will certainly be able to provide PCS more quickly and cost-effectively than companies that will have to construct a PCS network from scratch. For example, companies with working commercial telecommunications networks already have technical knowledge and experience in network planning and construction, interconnection, and customer service and billing. When this experience is combined with their existing networks, which can provide immediate backhaul, network intelligence and billing functions, it is clear that companies like Ohio LINX will be able

to provide the benefits of PCS to consumers much more quickly than any "start-up" operators.

II. THE REGULATORY STRUCTURE OF PCS SHOULD ENCOURAGE PARTICIPATION BY SMALLER ENTREPRENEURIAL COMPANIES

While there are many commercial telecommunications networks in place that can form the backbone of PCS networks, most of these local networks are operated by a few large carriers -- major local exchange companies and their affiliated cellular telephone companies. However, Ohio LINX urges the Commission to recognize the fact that in many cases, smaller companies can more efficiently and effectively advance many of the goals set out by the Commission for the licensing of PCS: speed of deployment, diversity of services and competitive delivery. Notice at para. 6.

Rapid deployment of PCS to consumers is an important goal. Smaller companies can often deploy services more rapidly because they are less burdened by bureaucracy and excessive layers of management. Furthermore, if, as described below, the Commission authorizes smaller service areas, many smaller companies will have the resources necessary to quickly develop, construct and operate PCS networks. Smaller companies, such as Ohio LINX, with existing telecommunications infrastructures, will be able to deploy PCS services even more quickly.

The Commission seeks to assure that diverse and new personal communications services are developed and deployed. It must be noted that many breakthroughs in telecommunications services and technologies have been and are being advanced by smaller entrepreneurial companies. MCI was a little-known microwave carrier when it pioneered the introduction of competitive interexchange services. And today, competitive local access (and soon, local

exchange²) services are being introduced by small but growing companies such as Ohio LINX. Indeed, the Commission need only look at one of the companies that filed the petitions for rulemaking that led to the establishment of this PCS proceeding -- Cellular 21, Inc.

Lastly, participation by smaller companies is critical to the competitive delivery of PCS. Smaller companies typically have smaller overhead expenses, and thus can often provide services at lower prices than larger companies. Furthermore, new smaller companies often offer comparative services at lower prices in order to attract customers away from larger more established carriers. Lastly, as described above, it is often smaller companies that develop the new services and technologies that create new competitive markets, or bring competition to established service markets.

Thus, it is clear that the Commission must take into account the role of smaller companies in establishing the regulatory structure of PCS. As shown below, two major regulatory issues will have a substantial impact on the ability of smaller companies to meaningfully participate in the provision of PCS: the size of service areas and the licensing mechanism. Ohio LINX will demonstrate that small service areas and the use of lotteries will not only promote the provision of PCS by smaller companies, but will advance the Commission's general regulatory goals for PCS.

² See, e.g., Ameritech Chairman Weiss Says That Local Exchange Competition Is "Inevitable", Telecommunications Reports, October 26, 1992, at page 5; Competitive Access Providers Positioning to Challenge Exchange Carriers, Provide Advanced Services, Id. at page 8.

III. THE COMMISSION SHOULD DESIGNATE SMALL SERVICE AREAS

The Notice proposes four different options for determining the size of service areas, from nationwide licenses to 487 "basic trading areas." Ohio LINX believes that smaller service areas would be more appropriate for most of the expected uses of PCS (and the uses being investigated by Ohio LINX), which largely propose low-power microcell systems designed to serve pedestrian users. Furthermore, smaller service areas would better advance the four general goals set forth in the Notice.³

First, smaller areas would result in more PCS service providers, which is likely to promote greater diversity of services and technologies. In addition, more service providers will obviously increase the competitive nature of the market. Smaller service areas will also reduce the expense of constructing and operating individual systems, thus allowing smaller companies to provide PCS. This factor is especially important in considering the provision of service to rural and small town areas where smaller populations would not justify larger investments. Smaller service areas would thus promote competition in these areas, and would advance the goal of universal service. Lastly, smaller service areas would allow systems to be constructed and turned on more quickly, thus advancing the goal of rapid implementation of PCS to consumers.

In light of the above factors, Ohio LINX urges the Commission to consider the use of the 734 MSAs and RSAs used to determine cellular telephone service areas. In addition to considerations of

³ Universality, speed of deployment, diversity of services and competitive delivery. Notice at para. 6.

size, it should be recognized that many potential PCS providers are already familiar with the nature of such individual MSAs and RSAs.⁴ Furthermore, the Commission is already familiar with administering such service areas.

IV. PCS LICENSES SHOULD BE ASSIGNED BY LOTTERIES

The Notice discusses three options for selecting among mutually exclusive PCS applications: comparative hearings, lotteries, and if authorized by Congress, competitive bidding. Ohio LINX believes that lotteries would be the best mechanism to select among competing applicants. The Notice correctly rejects the use of hearings because they will certainly be slower and more costly to applicants (as well as to the Commission) than other licensing mechanisms. The expense of hearings, and the delays in authorization of service, would inevitably discourage participation by smaller companies more than by large companies.

Lotteries are clearly the best mechanism for assigning PCS licenses. The reduced expense to applicants will encourage smaller companies to participate and ultimately, to promote a more competitive service. The speed of the lottery mechanism will allow licensees to begin construction of their systems more quickly, and thus promote the rapid deployment of PCS to consumers. While Commission lotteries have in the past been marred by the crush of speculative applications, the number of such applications could be reduced by adding the following elements to the lottery mechanism: "letter perfect" application standards, narrow filing windows, and

⁴ In choosing licensing areas for the new interactive video and data service, the Commission used the 734 MSAs and RSAs, and noted that "cellular service areas are well known to the communications industry." Interactive Video and Data Services, Report and Order, 7 FCC Rcd 1630,1638 (1992).

most importantly, substantial application fees.⁵ Furthermore, while the submission with the application, of detailed engineering and business proposals and proof of financial resources, would unnecessarily delay the Commission's processing of applications, the Commission should require such a submission shortly (3 days) after selection of the tentative licensee. Three days is too short of a time to create such a showing from scratch, and thus, all applicants will have to prepare it. The expense of such preparation, and the "reality check" resulting from the creation of an actual business plan, should substantially limit the number of applicants.

The Commission should not initially select an alternative in case the winner turns out to be unqualified. Such a selection only creates a party with a great incentive to slow down the licensing for a particular area. If the tentative selectee is found to be unqualified, holding a lottery with the remaining applicants would not require the expenditure of substantial new Commission resources. In any case, the Commission should also impose strict deadlines on construction, and a 3 year holding period after construction and operation.

The use of competitive bidding to assign PCS licenses would clearly be contrary to the public interest. This mechanism would eliminate some, but certainly not all, speculators. And while the bidding fees would minimally boost the treasury, they would hamper competition by adding substantial costs not paid by the non-PCS

⁵ While such fees should be substantial enough to discourage speculators, they should not be so large as to discourage serious but small applicants. The \$6,760 fee currently authorized for the filing of comparative common carrier applications would be an appropriate.

competitors of the PCS provider. Furthermore, by limiting the provision of PCS to those parties with the "deepest pockets," the Commission would eliminate the opportunity for smaller companies to provide PCS, thus substantially reducing the competitive environment. Lastly, the Commission's current lack of authority to use competitive bidding renders this proposal unacceptable, since Commission attempts to obtain such authority prior to the licensing of PCS providers would lead to further delays in the implementation of this service.

V. CONCLUSION

The deployment of personal communications services will provide significant benefits to American consumers and businesses. The public interest will clearly be served by promoting the provision of PCS by smaller entrepreneurial companies. Participation by these companies will maximize the Commission's regulatory goals of rapid deployment, diversity of services and competitive delivery. In order to encourage the participation of these companies, the Commission should designate smaller service areas and assign PCS licenses through lotteries.

Respectfully submitted,

Ohio LINX, Inc.

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